

### REMARKS

Claims 1-3, 5-17 and 19 were rejected in the above-identified Office Action. Claims 1, 3, 5, 9-12, and 14-16 have been amended. Claims 17 and 19 have been cancelled (without prejudice). All amendments are fully supported by the specification and figures. Accordingly, claims 1-3 and 5-16 are pending in the application. Reconsideration of the rejections is respectfully requested

### AMENDMENTS

Support for the amendments to claims 1, 3 and 11 are found at least in paragraphs [0028]-[0035], [0041]-[0042], and in Figures 3, 4 and 7. Support for the amendments to claims 9 and 10 are found at least in paragraphs [0049]-[0055] and in Figures 8-14. Support for the amendments to claims 16 is found at least in paragraphs [0036]-[0042] and in Figures 5, 6 and 7.

### CLAIM REJECTIONS UNDER 35 U.S.C. § 103

In “Claim Rejections – 35 USC § 103,” item 3 on page 2 of the above-identified FOA, claims 1-3, 5-17 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0156921 to *Dutta et al.* (hereinafter *Dutta*) in view of U.S. Patent No. 6,865,655 to *Andersen* (hereinafter *Andersen*) and further in view of U.S. Patent No. 6,526,316 to *Ramasubramani et al.* (hereinafter *Ramasubramani*).

While Applicants respectfully disagree that the cited references teach or suggest the features of the pending claims, Applicants have nonetheless cancelled claims 17 and 19 (without prejudice), and amended independent claims 1, 11, 12, and 16 (without prejudice) in order to advance prosecution and proceed to allowance of all claims.

Before discussing the amended claims, Applicants respectfully remind the Examiner that § 103 requires the invention being examined be “viewed as a whole.”

As amended, claim 1 recites, in part, “a memory comprising computer executable instructions . . . operative to cause the wireless communication apparatus to:

facilitate login, by a user of the wireless communication apparatus, to a user account at a remote backup server, the user account being accessible from the wireless communication apparatus as well as from another computing device of the user;

facilitate designation, by the user, of data on the wireless communication apparatus to be backed up by the backup server;

generate a hash value for said designated data;

communicate a request to the backup server to back up the designated data, including said hash value, to enable said backup server to determine whether said data is already available to said backup server;

only after said backup server determines that said data was not already earlier made available to said backup server from the wireless communication device or other devices, receive a request from said backup server to send said data to said backup server; and

send said data to said backup server in response to said request from the backup server, wherein the backup server is configured to store the data, to associate the stored data with said user account as well as other user accounts subsequently wanting to backup the same data, and to provide, on request by the user, the data to the another computing device of the user.”

Accordingly, when viewed as a whole, claimed 1 is directed towards a backup method that is driven by the wireless communication device. The backup server initiates the backup only after the wireless communication apparatus communicates a request to the backup server. Further, claim 1 required the backup be streamlined, in that, the server will responsively request the wireless communication device for the designated data to be backup, “only after the backup server determines that said data is not already earlier made available to said backup server from the wireless communication device, nor other devices;” and “the server upon storing the data for the wireless communication device, will associate the data not only with the user account of the user of the wireless communication device, but “other

user accounts subsequently wanting to backup the same data, and to provide, on request by the user, the data to the another computing device of the user.”

In contrast, the cited figures and passages of Dutta describe a system and method for backing up data from a mobile device using a process *initiated and driven by a backup server* (see e.g. [0007]). Dutta teaches that the backup server pushes a backup request to a client through a proxy/gateway and provides an application to the client that the client uses to send data to the backup server ([0007], Fig’s 5 and 7). In paragraph [0031], Dutta teaches that “[a]t predetermined intervals or when notified that a user has powered on a wireless device, the data backup server 170 pushes a command to the wireless device instructing the wireless device, such as wireless device 140, 164 or 132, to upload data . . . for backup on backup data server 170.” In the same passage, Dutta teaches that [a]ll of this is performed without notification of or action on the part of the user . . . . Thus, the present invention provides cell phone and other wireless device users a painless and effortless mechanism for protecting valuable information and does not require user intervention.”

Further, Dutta does not teach or suggest the streamlined requirements of

“only after said backup server determines that said data was not already earlier made available to said backup server from the wireless communication device or other devices, receive a request from said backup server to send said data to said backup server; and

send said data to said backup server in response to said request from the backup server, wherein the backup server is configured to store the data, to associate the stored data with said user account as well as other user accounts subsequently wanting to backup the same data, and to provide, on request by the user, the data to the another computing device of the user. ”

Andersen and Ramasubramani do not remedy the deficiencies of Dutta.

For at least the above reasons, the combination of Dutta, Andersen and Ramasubramani fails to teach or even suggest the recitations of claim 1.

Accordingly, claim 1, as amended, is patentable over Dutta, Andersen and Ramasubramani combined.

Claim 12 is directed to a method of claim 1, and recites similar elements. Accordingly, for at least the same reasons, claim 12 is also patentable over Dutta and Andersen.

Claims 2, 3, 5-10 and 13-15 depend from claims 1 and 12, incorporating their recitations. Thus, for at least the same reasons, claims 2, 3, 5-10, and 13-15 are patentable over Dutta, Andersen and Ramasubramani combined.

Claims 11 and 16 have been amended to include recitations substantially similar to those of amended claim 1, from a restoration perspective.

Accordingly, for at least the above reasons, claims 11 and 16 are patentable over the cited references.

**CONCLUSION**

In view of the foregoing, reconsideration and allowance of all pending claims is respectfully solicited.

If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1513. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,  
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